

MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
STEPHANIE ZINNA, ESQ.
Nevada Bar No. 011488
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9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
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Attorneys for Defendants WALGREEN CO., JARDEN
CORPORATION, SUNBEAM PRODUCTS, INC.
and SUNBEAM PRODUCTS, INC.
d/b/a JARDEN CONSUMER SOLUTIONS

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * * *

EVELYN F. BOWEN,

Plaintiff,

vs.

WALGREEN CO., an Illinois Corporation;
JARDEN CORPORATION, a New York
Corporation; SUNBEAM PRODUCTS, INC.,
a Florida Corporation; SUNBEAM
PRODUCTS, INC. D/B/A JARDEN
CONSUMER SOLUTIONS, a foreign
corporation; DOES 1 through 30; ROE
BUSINESS ENTITIES 1 through 30, inclusive
jointly and severally,

Defendants.

CASE NO.

**NOTICE OF REMOVAL OF CIVIL
ACTION**

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA:

Defendants WALGREEN CO., JARDEN CORPORATION, SUNBEAM PRODUCTS,
INC., and SUNBEAM PRODUCTS, INC. dba JARDEN CONSUMER SOLUTIONS,
respectfully show:

1. The above-entitled action was commenced in the Eighth Judicial District Court
for the State of Nevada, in and for the County of Clark, and is now pending in that court. Process

1 was served upon Defendants WALGREEN CO., JARDEN CORPORATION, SUNBEAM
2 PRODUCTS, INC., and SUNBEAM PRODUCTS, INC. dba JARDEN CONSUMER
3 SOLUTIONS on January 27, 2014. Copies of said Summons and Complaint are attached hereto
4 as Exhibits "A" and "B," respectively.

5 2. This Petition is timely filed pursuant to 28 U.S.C.A. § 1446(b).

6 3. Defendants are informed and believe and thereon allege that there have been no
7 further proceedings or papers filed in said action.

8 4. This action is a civil action of which this Court has original jurisdiction under the
9 provisions of 28 U.S.C.A. § 1332 and is one which may be removed to this Court by Defendants
10 pursuant to the provisions of 28 U.S.C.A. § 1441(b), in that it is a civil action wherein the matter
11 in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is
12 between citizens of different States and a foreign state.

13 5. Defendants are informed and believe and thereon allege that Plaintiff EVELYN F.
14 BOWEN, at the time of commencing this action was, and still is, a resident of the State of
15 Nevada.

16 6. Defendant WALGREEN CO. at the time of commencing this action was, and still
17 is, an Illinois Corporation with its principal place of business in the State of Illinois.

18 7. Defendant SUNBEAM PRODUCTS, INC. at the time of commencing this action
19 was, and still is, a Florida Corporation with its principal place of business in the State of Florida.

20 8. Defendant SUNBEAM PRODUCTS, INC. d/b/a JARDEN CONSUMER
21 SOLUTIONS at the time of commencing this action was, and still is, a Foreign Corporation.

22 9. A copy of the instant Notice for Removal of Civil Action of the above-entitled
23 action to the United States District Court, District of Nevada, together with copies of the
24 Summons and Complaint have been deposited with the County Clerk's Office for the Eighth
25 Judicial District, in and for the County of Clark, Nevada.

26 10. This Notice of Removal of Civil Action is filed with this Court within thirty (30)
27 days after receipt by Defendants of the Complaint in the above-entitled action.

28 ...

WHEREFORE, Defendants pray that the above-entitled action be removed from the Eighth Judicial District Court, in and for the County of Clark, Nevada to this Court.

DATED this 14th day of February, 2014.

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

By 

MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
STEPHANIE ZINNA, ESQ.
Nevada Bar No. 011488
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Attorneys for Defendants WALGREEN CO.,
JARDEN CORPORATION, SUNBEAM
PRODUCTS, INC. and SUNBEAM
PRODUCTS, INC. d/b/a JARDEN CONSUMER
SOLUTIONS

AFFIDAVIT OF STEPHANIE ZINNA, ESQ.

STATE OF NEVADA)
)
COUNTY OF CLARK)

I, Stephanie Zinna, being duly-sworn hereby depose and affirm

1. That Affiant is a duly-licensed attorney practicing law in the State of Nevada, Bar No. 011488, with the law firm of OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, maintaining offices at 9950 West Cheyenne Avenue, Las Vegas, Nevada 89129;

2. That Affiant is the attorney for Defendants WALGREEN CO., JARDEN CORPORATION, SUNBEAM PRODUCTS, INC. and SUNBEAM PRODUCTS, INC. d/b/a JARDEN CONSUMER SOLUTIONS;


3. That Affiant has prepared and read the foregoing Notice of Removal of Civil Action and knows the matters set forth and contained therein to be true and correct to the best of your Affiant's knowledge and belief;

4. That Affiant caused to be filed with the Clerk of the Eighth Judicial District Court a copy of Defendants' Notice of Removal of Civil Action of the above-entitled action to the


1 United States District Court for the District of Nevada at Las Vegas, together with a copy of the
2 Summons and the Complaint, by depositing such copies with the Deputy Clerk in the Clerk's
3 office for the Eighth Judicial District Court of the State of Nevada at the office of the County
4 Clerk, Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89101.

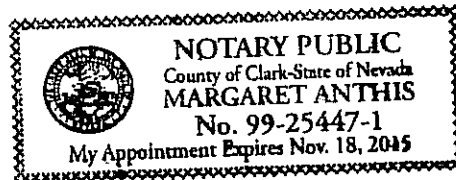
5 5. That Affiant caused to be served a Notice and a copy of the Notice of Removal of
6 Civil Action on KYLE A. STUCKI, ESQ., attorney of record for the Plaintiff EVELYN F.
7 BOWEN in the above-entitled action by depositing the same in the United States mail on
8 February 14, 2014, in an envelope properly addressed to Kyle A. Stucki, Richard Harris Law
9 Firm, 801 S. Fourth Street, Las Vegas, Nevada 89101.

10 FURTHER AFFIANT SAYETH NAUGHT.

11
12 
STEPHANIE ZINNA

13 SUBSCRIBED AND SWORN to before me
14 this 14 day of February, 2014.

15 
16 NOTARY PUBLIC in and for said
County and State



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of February, 2014, I served the above DEFENDANTS NOTICE OF REMOVAL through the CM/ECF system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Kyle A. Stucki
Richard Harris Law Firm
801 S. Fourth Street
Las Vegas, Nevada 89101


An employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI

A

A

CT

DISTRICT COURT
CLARK COUNTY, NEVADA

EVELYN F. BOWEN,

Plaintiff,

vs.

WALGREEN CO., an Illinois Corporation;
JARDEN CORPORATION, a New York
Corporation; SUNBEAM PRODUCTS, INC., a
Florida Corporation; SUNBEAM PRODUCTS,
INC. D/B/A JARDEN CONSUMER
SOLUTIONS, a foreign corporation; DOES 1
through 30; ROE BUSINESS ENTITIES 1
through 30, inclusive jointly and severally,

Defendants.

CASE NO.: A-13-693038-C

DEPT. NO.: 10

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT
YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE
INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in
the Complaint.

JARDEN CORPORATION,
a New York Corporation

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of
the day of service, you must do the following:
 - a. File with the Clerk of this Court, whose address is shown below, a formal written response to the
Complaint in accordance with the rules of the Court.
 - b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of Plaintiff and this Court may enter
a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or
property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your
response may be filed on time.

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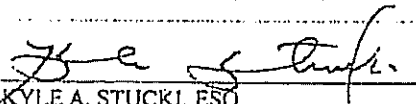
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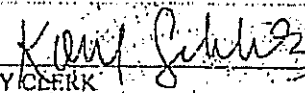
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Issue at the direction of:

RICHARD HARRIS LAW FIRM


KYLE A. STUCKI, ESQ.
Nevada Bar No. 12646
801 S. Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

CLERK OF COURT


DEPUTY CLERK
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

KORY SCHMITZ

Date

DEC 19 2013

CT

DISTRICT COURT
CLARK COUNTY, NEVADA

EVELYN F. BOWEN,

Plaintiff,

vs.

CASE NO.: A-13-693038-C
DEPT. NO.: 10

SUMMONS - CIVIL

WALGREEN CO., an Illinois Corporation;
JARDEN CORPORATION, a New York
Corporation; SUNBEAM PRODUCTS, INC., a
Florida Corporation; SUNBEAM PRODUCTS,
INC. D/B/A JARDEN CONSUMER
SOLUTIONS, a foreign corporation; DOES 1
through 30; ROE BUSINESS ENTITIES 1
through 30, inclusive jointly and severally,

Defendants.

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT
YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE
INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in
the Complaint.

✓
SUNBEAM PRODUCTS, INC. D/B/A JARDEN CONSUMER SOLUTIONS,
a foreign corporation

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of
the day of service, you must do the following:
 - a. File with the Clerk of this Court, whose address is shown below, a formal written response to the
Complaint in accordance with the rules of the Court.
 - b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of Plaintiff and this Court may enter
a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or
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3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your
response may be filed on time.

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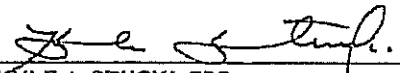
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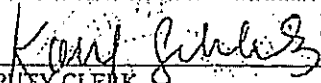
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Issue at the direction of:

RICHARD HARRIS LAW FIRM


KYLE A. STUCKI, ESQ.
Nevada Bar No. 12646
801 S. Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

CLERK OF COURT


DEPUTY CLERK
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

DEC 19 2013

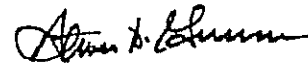
Date

KORY SCHULTZ

B

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CLERK OF THE COURT

1 COMP
2 KYLE A. STUCKI, ESQ.
3 Nevada Bar No. 12646
4 RICHARD HARRIS LAW FIRM
5 801 South Fourth St.
6 Las Vegas, NV 89101
7 Tel. (702) 444-4444
8 Fax (702) 444-4455
9 Email Kyle@richardharrislaw.com

10 Attorneys for Plaintiff

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 EVELYN F. BOWEN,

14 Plaintiff,

15 vs.

16 WALGREEN CO., an Illinois Corporation;
17 JARDEN CORPORATION, a New York
18 Corporation; SUNBEAM PRODUCTS, INC., a
19 Florida Corporation; SUNBEAM PRODUCTS,
20 INC. D/B/A JARDEN CONSUMER
21 SOLUTIONS, a foreign corporation; DOES 1
22 through 30; ROE BUSINESS ENTITIES 1
23 through 30, inclusive jointly and severally,

24 Defendants.

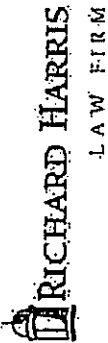
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DEPT. NO.: X

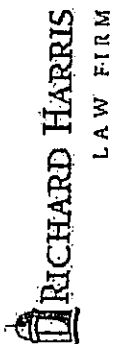
COMPLAINT

25 COMES NOW, Plaintiff EVELYN F. BOWEN by and through her attorney of record
26 KYLE A. STUCKI, ESQ. of the RICHARD HARRIS LAW FIRM, and complains and alleges as
27 follows:

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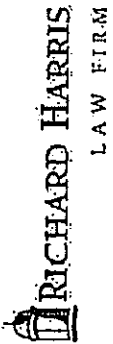




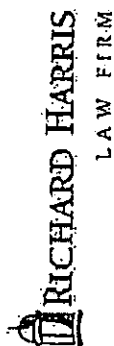
I.
JURISDICTION

1. That at all times relevant herein, Plaintiff EVELYN F. BOWEN (hereinafter referred to as "Plaintiff") was, and is, a resident of Clark County, Nevada.
2. That at all times relevant herein, Defendant WALGREEN CO. was, and is, an Illinois Corporation registered to do business in Nevada, which regularly causes its products to be sold in Clark County, State of Nevada.
3. That at all times relevant herein, Defendant JARDEN CORPORATION was, and is, a New York Corporation registered to do business in Nevada, which regularly causes its products to be sold in Clark County, State of Nevada.
4. That at all times relevant herein, Defendant SUNBEAM PRODUCTS, INC. was, and is, a Florida Corporation registered to do business in Nevada, which regularly causes its products to be sold in Clark County, State of Nevada.
5. That at all times relevant herein, Defendant SUNBEAM PRODUCTS, INC. D/B/A JARDEN CONSUMER SOLUTIONS was, and is, a foreign corporation registered to do business in Nevada, which regularly causes its products to be sold in Clark County, State of Nevada.
6. All the facts and circumstances that gave rise to the subject lawsuit occurred in Clark County, Nevada.
7. That Defendant DOES 1-5 and ROE BUSINESS ENTITIES 1-5, inclusive, are foreign or domestic designers and/or manufacturers of the defective heating pad or its component parts complained of herein.

///



- 1 8. That Defendant DOES 6-10 and ROE BUSINESS ENTITIES 6-10, inclusive, are
2 foreign or domestic suppliers, distributors and/or retailers of the defective heating pad
3 or its component parts complained of herein and/or are agents otherwise involved
4 with placing the subject heating pad within the stream of commerce as related to the
5 present matter.
6
- 7 9. That Defendant DOES 11-15 and ROE BUSINESS ENTITIES 11-15, inclusive, are
8 mechanics, supervisors, managers, agents and/or employees of Defendants.
9
- 10 10. That Defendant DOES 16-20 and ROE BUSINESS ENTITIES 16-20, inclusive, are
11 successor business entities that may have purchased WALGREEN CO., JARDEN
12 CORPORATION, SUNBEAM PRODUCTS, INC. and/or SUNBEAM PRODUCTS,
13 INC. D/B/A JARDEN CONSUMER SOLUTIONS and assumed liability for claims
14 against WALGREEN CO., JARDEN CORPORATION, SUNBEAM PRODUCTS,
15 INC. and/or SUNBEAM PRODUCTS, INC. D/B/A JARDEN CONSUMER
16 SOLUTIONS.
17
- 18 11. That the true names and capacities of the Defendants designated herein as DOE or
19 ROE BUSINESS ENTITIES are presently unknown to Plaintiffs at this time.
20 Therefore, Plaintiffs sue said Defendants by fictitious names. When the true names
21 and capacities of these defendants are ascertained, Plaintiffs will amend this
22 Complaint accordingly.
23
- 24 12. That at all times pertinent, Defendants designated herein as DOE or ROE BUSINESS
25 ENTITIES were agents, servants, employees or join venturers of every other
26 Defendant herein, and at all times mentioned herein were acting within the scope and
27
28



1 course of said agency, employment, or joint venture, with knowledge and permission
2 and consent of all other named Defendants.

3 13. That at all times pertinent, Defendants designated herein as DOE or ROE BUSINESS
4 ENTITIES was in some manner negligently, strictly or otherwise responsible for the
5 events and happenings referred to and caused damages to Plaintiffs as herein alleged.

6 14. Plaintiffs will ask leave of the court to amend the Complaint to insert the true names
7 of such defendants when the same have been ascertained.

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11 **II.**
GENERAL ALLEGATIONS

12 15. Plaintiffs repeat and reallege paragraphs 1-14 as though the same were fully set forth
13 at length herein.

14 16. On or about December 31, 2011, Plaintiff was at home resting with a heating pad on
15 her back.

16 17. The heating pad was purchased and owned by Plaintiff.

17 18. The heating pad suddenly, and without warning, lit on fire, causing injury to Plaintiff
18 and burning a hole through a towel, two sheets, a mattress pad, a blanket and a
19 mattress.

20 19. The heating pad was manufactured by WALGREEN CO., JARDEN
21 CORPORATION, SUNBEAM PRODUCTS, INC. or SUNBEAM PRODUCTS,
22 INC. D/B/A JARDEN CONSUMER SOLUTIONS.

23 20. The heating pad was purchased from WALGREEN CO.

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III.

FIRST CAUSE OF ACTION

(Strict Product Liability as to all Defendants)

21. Plaintiffs repeat and reallege paragraphs 1-20 as though the same were fully set forth at length herein.

22. At the time the heating pad was placed in the stream of commerce by Defendants, the heating pad was defective and unreasonably dangerous, without limitation, as follows:

- a. Defects in the design of the heating pad;
- b. Defects in the manufacture of the heating pad;
- c. Defects in the warnings or labels accompanying the heating pad; and
- d. Other defects that may later be revealed during discovery.

23. The failure of the heating pad, and the damages sustained by Plaintiff were a direct and proximate result of the defects in the heating pad, which was being used in the manner intended or in a manner unintended but foreseeable.

24. Defendants are strictly liable for the injuries and damages sustained by Plaintiff.

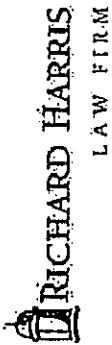
IV.

SECOND CAUSE OF ACTION

(Negligence as to all Defendants)

25. Plaintiffs repeat and reallege paragraphs 1-24 as though the same were fully set forth at length herein.

26. Defendants had a duty to Plaintiff to exercise reasonable care in its design, testing, manufacturing, sale, examining, maintaining, repairing and/or certification of the heating pad.



1 27. Defendants failed to exercise the reasonable care in its design, testing, manufacturing,
2 sale, examination, maintenance, repair and/or certification of the heating pad.

3 28. Defendants' acts and/or omissions are the proximate and legal cause of the failure of
5 the heating pad and the damages sustained by Plaintiff.
6

7 29. Plaintiff sustained injuries and damages as a result of Defendants' breach of their
8 duty/duties.

9
10 **V.**
THIRD CAUSE OF ACTION
(Breach of Express Warranties as to all Defendants)

11 30. Plaintiffs repeat and reallege paragraphs 1-29 as though the same were fully set forth
12 at length herein.

13 31. Defendants expressly warranted that the heating pad was free from defects.

14 32. Defendants breached the express warranties, and these breaches of warranty were the
15 proximate and legal cause of the failure of the heating pad.
16

17 33. Plaintiff sustained injuries and damages as a result of Defendants' breach.

18
19 **VI.**
FOURTH CAUSE OF ACTION
(Breach of Implied Warranty of Merchantability as to all Defendants)

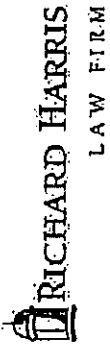
20 34. Plaintiffs repeat and reallege paragraphs 1-33 as though the same were fully set forth
21 at length herein.
22

23 35. Defendants breached the implied warranty of merchantability, and their breach of
24 warranty was the proximate and legal cause of the failure of the heating pad.
25

26 36. Plaintiff sustained injuries and damages as a result of Defendants' breach.

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VII.
FIFTH CAUSE OF ACTION
**(Breach of Implied Warranty of Fitness
for a Particular Purpose as to all Defendants)**

37. Plaintiffs repeat and reallege paragraphs 1-36 as though the same were fully set forth at length herein.

38. Defendants had reason to know:

- a. the particular purpose for which the heating pad would be used, and;
- b. that Plaintiff was relying on Defendants' skill and judgment to provide a suitable product.

39. Defendants implicitly warranted that the heating pad were fit for the particular purpose for which it was required.

40. Defendants breached their implied warranty of fitness for a particular purpose, and its breach of warranty was the proximate and legal cause of the failure of the heating pad.

41. Plaintiff sustained injuries and damages as a result of Defendants' breach.

VIII.
SIXTH CAUSE OF ACTION
(Punitive Damages as to all Defendants)

42. Plaintiffs repeat and reallege paragraphs 1-41 as though the same were fully set forth at length herein.

43. That at all times relevant herein, Defendants acted with conscious disregard, fraudulently, with express and implied malice and/or oppressively towards Plaintiff.

44. That, specifically, Defendants' conduct gives rise to and supports a claim for punitive damages pursuant to NRS 42.007.

1 45. That as a direct and proximate result of the acts of Defendants, Plaintiff has incurred
2 damages and is thereby entitled to punitive damages in excess of \$10,000.00.
3

4
5 **IX.**
6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff expressly reserves the right to amend this Complaint at the
8 time of trial of the action to include all items of damage not yet ascertainable and for any causes
9 of action which discovery may so provide, demands judgment against Defendants, and each of
10 them, as follows:

- 11 1. For a sum in excess of \$10,000 for special damages;
12 2. For a sum in excess of \$10,000 for general damages;
13 3. For a sum in excess of \$10,000 for punitive damages;
14 4. For reasonable attorneys' fees plus costs of suit; and
15 5. For such other and further relief as the Court may deem just and proper.
16

17 DATED this 12th day of December, 2013.
18

19 **RICHARD HARRIS LAW FIRM**

20 

21 **KYLE A. STUCKI, ESQ.**
22 Nevada Bar No. 12646
23 801 S. Fourth Street
24 Las Vegas, Nevada 89101
25 Attorneys for Plaintiff
26
27
28

